

## REMARKS

Reconsideration of the above-identified application is respectfully requested.

The Examiner refuses to give weight to the preamble of claim 6, apparently because "the body of the claim does not depend upon the preamble for completeness." It is noted that the body of claim 6 recites "means for selectively coupling the comfort noise signal to at least one of *the channels*" [emphasis added]. The body of claim 6 does not recite channels. The preamble of claim 6 recites a receive channel and a transmit channel in a cellular telephone. Claim 6 also recites "a plurality of analysis sub-band filters" in the preamble. These are referred to in the body of the claim. Thus, claim 6 *does* depend upon the preamble for completeness, otherwise the recitations of the sub-band filters and the channels would have no antecedent and the body of claim 6 would not be "able to stand alone."

Claims 6 and 7 have been rejected as anticipated by Uchino et al. The Uchino et al. publication does not mention "phone," "cellphone," or "telephone." How can there be anticipation? The Uchino et al. publication does not anticipate even the preamble of claim 6.

The Uchino et al. publication discloses the following in the paragraphs indicated.

"[0348] The clock signal CK1 output from the wander generator 21 thus configured is input to the transmission unit 40 illustrated in FIG. 1, as mentioned above.

[0349] Then, a digital signal Sa synchronized with the clock signal CK1 is sent from the transmission unit 40 to the digital line 1 under testing.

[0350] Then, a digital signal Sa' returned from the digital line 1 is received by the reception unit 41, and subsequently its error rate is measured by the error measuring unit 42."

Measuring return delay in a "digital line" is known as measuring echo. Claims 6 and 7 relate to comfort noise. How is there anticipation?

The Examiner alleges that the Uchino et al. publication discloses "a plurality of sub-band filters band (Paragraph 452)." Paragraph 452 reads as follows.

“[0452] Therefore, the latch circuit 532 outputs every fourth noise signals  $n_2$  [ $n(2), n(6), n(10), \dots, n(2+4i), \dots$ ] from  $n(2)$  at a rate  $1/4$  the clock signal  $CK_n$  (8 Hz), as illustrated in FIG. 25F.”

It is respectfully submitted that this is no disclosure of sub-band filters.

The Examiner alleges that the Uchino et al. publication discloses coupling white noise through first and second multipliers. Assuming arguendo that this broad assertion is true, FIG. 24 clearly discloses that the multipliers perform a weighting function based upon signals  $\sigma_1 \sim \sigma_{13}$ . These signals are defined on page 17, paragraphs [458–470] as fixed weights. As illustrated in applicant's FIG. 6, and recited in claims 6 and 7, the inputs to the multipliers are signals from the sub-band filters. The circuits are obviously completely unrelated in function, purpose, or construction. How can there be anticipation?

Admittedly, a word search would cough up the Uchino et al. publication because it contains the words “QMF” and “cascade.” It is respectfully submitted that merely containing a few words is a far cry from disclosing the same circuit.

Claims 1–5 were rejected as unpatentable over Uchino et al. in view of Swaminathan et al. The Uchino et al. publication is irrelevant for the reasons given above. The Swaminathan et al. patent does relate to comfort noise but takes a different approach, believed called the “snippet” approach, wherein pieces of actual background noise are used for comfort noise. As such, there is the obvious question of why someone measuring delay in a “digital line” would concern himself with a comfort noise generator; *In re Rouffet*, 47 USPQ2d 1453, at 1457 (Fed. Cir. 1998). It is respectfully submitted that there is no basis for the combination.

The Swaminathan et al. patent discloses the following in the abstract.

“The comfort noise generator includes synthesis codebook with samples scaled by actual background noise and excitation codebook with samples filtered and scaled by the background noise that are combined to produce comfort noise having attributes and loudness level of the received background noise prior to interruption of transmission.”

There is no disclosure of modifying white noise in accordance with the content of a sub-band signal.

Claims 8–10 have been rejected as unpatentable over Uchino et al. The Examiner alleges that it would be obvious to combine the outputs of two filters because filters

have a range and combining two outputs "results only in a wider bandwidth." Applicant requests that the Examiner substantiate the premise with evidence of record. There is nothing in the current record to support such an assertion and claims must be rejected on evidence, not suppositions.

Claims 8–10 further distinguish for the same reasons as parent claims 6.

In view of the foregoing remarks, it is respectfully submitted that claims 1–10 are in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul F. Wille". The signature is written in a cursive, flowing style.

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